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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/23/2001

Timothy Gayle Goux

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EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT

PAPER NUMBER

3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/044,581	GOUX, TIMOTHY GAYLE	
	Examiner	Art Unit	
	Mike Tomaszewski	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 17-19, 24-30 and 32-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 17-19, 24-30 and 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the Response To Office Action filed on 12/13/06. Claims 9-16, 20-23, and 31 have been cancelled; claims 1-4, 6, 8, 17, 19, 24-25, 28, and 32 have been amended; and claims 34-35 are newly added. Claims 1-8, 17-19, 24-30, and 32-35 are currently pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 5-8, 24-28, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez (Martinez, Shandra. "Hospital Passes Review By National Accreditation Agency" Jul 19, 2000. The Grand Rapids Press. pg. L.6; hereinafter Martinez), in view of Minturn (5,692,501; hereinafter Minturn).

(A) As per currently amended Claim 1, Martinez discloses a method for providing improved performance of an insured healthcare facility (Martinez: pg. L.6), the method comprising the steps of:

- (1) determining insurance program requirements designed to reduce risks of accidents associated with the healthcare facility (Martinez: pp. 1-2)

(Examiner notes that Martinez teaches, "Without JCAHO accreditation, a hospital cannot qualify for federal Medicare funds or receive payment from health-insurance providers." Examiner considers accreditation of a hospital (i.e., healthcare facility) by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to be an insurance program requirement designed to reduce and/or prevent accidents.);

- (2) formulating an insurance program containing the insurance program requirements (Martinez: pp. 1-2)

(Examiner notes that Martinez teaches the formulation of an insurance program whereby a healthcare facility, in order to receive payment from insurance providers, must abide by the JCAHO's health-care standards and accreditation (i.e., program requirements.);

- (3) reducing risks of accidents associated with the healthcare industry by
implementing procedures designed for the insured entity to meet the
insurance program requirements (Martinez: pp. 1-2)

(Examiner notes that Martinez teaches that the JCAHO recommends
various healthcare standards and improvements in documentation and
facility-related issues (i.e., procedures designed for the insured entity to
meet the insurance program requirements, that is, healthcare standards
and accreditation.);

- (4) identifying the conformance of the insured healthcare facility to the
program requirements (Martinez: pp. 1-2)

(Examiner notes that Martinez teaches that representatives of the JCAHO
visit healthcare facilities to conduct audits and on-site surveys of a
healthcare facilities to assess the their conformance with specified
healthcare standards and accreditation.); and

- (5) communicating data indicative of the conformance of the insured
healthcare facility to an interested third party (Martinez: pp. 1-2)

(Examiner notes that the JCAHO, upon completing an on-site survey of a healthcare facility, drafts a report with its findings and, if warranted, provides the healthcare facility with accreditation (i.e., data indicative of conformance. This accreditation, in turn, must be provided to the health-insurance provider (i.e., interested third party) in order for the healthcare facility to receive payment.).

Martinez, however, fails to *expressly* disclose a method for providing improved performance of an insured healthcare facility, the method comprising the steps of:

- (6) monitoring the results of the procedures to identify the conformance of the insured healthcare facility to the program requirements.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn. In particular, Minturn discloses a method for providing improved performance of an insured healthcare facility, the method comprising the steps of:

- (6) monitoring the results of the procedures to identify the conformance of the insured healthcare facility to the program requirements (Minturn: col. 9, lines 45-54)

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

(B) As per currently amended claim 2, Martinez discloses the method of claim 1, wherein the step of formulating an insurance program containing the insurance program requirements comprises an insured healthcare facility (Martinez: pp. 1-2)

(Examiner also notes that Martinez suggests a healthcare facility purchases the insurance program because Martinez teaches that a hospital cannot receive payment from health-insurance providers without accreditation, that is, a healthcare facility needs to both 1) be accredited and 2) have purchased the insurance program to receive payment.)

Martinez, however, fails to *expressly* disclose the method of claim 1, wherein the step of formulating an insurance program containing the insurance program requirements comprises an insured purchasing the insurance program.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn. In particular, Minturn discloses the method of claim 1, wherein the step of formulating an insurance program containing the insurance program requirements

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comprises an insured purchasing the insurance program (Minturn: col. 9, lines 45-54) (Examiner notes that Minturn discloses the reduction of premiums, that is, payments for insurance—purchase of the insurance program is therefore, inherent.).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

(C) As per previously presented claim 5, Martinez discloses the method of claim 1, wherein the step of monitoring the results of the procedures to identify the conformance of the insured entity to the program requirements further comprises providing feedback to the insured entity regarding compliance with the insurance program requirements (Martinez: pp. 1-2).

(D) As per currently amended claim 6, Martinez fails to *expressly* disclose the method of claim 1, wherein the step of communicating data indicative of the conformance of the insured healthcare facility to an interested third party further comprises the steps of:

- (1) attributing a score to the monitored results; and
- (2) providing the score to the interested third party.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn. In particular, Minturn discloses the method of claim 1, wherein the step of communicating data indicative of the conformance of the insured healthcare facility to an interested third party further comprises the steps of:

- (1) attributing a score to the monitored results (Minturn: abstract); and
- (2) providing the score to the interested third party (Minturn: col. 9, lines 45-54).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

(E) As per previously presented claim 7, Martinez fails to *expressly* disclose the method of claim 6, wherein the step of attributing a score to the monitored results further comprises attributing a numerical score indicating the conformance of the insured entity to the insurance program requirements.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn. In particular, Minturn discloses the method of claim 6, wherein the step of

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attributing a score to the monitored results further comprises attributing a numerical score indicating the conformance of the insured entity to the insurance program requirements (Minturn: abstract)

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

(F) As per currently amended claim 8, Martinez discloses the method of claim 7, wherein the step of communicating data indicative of the conformance of the insured healthcare facility to an interested third party further comprises the step of providing the score to the insured healthcare facility (Martinez: pp. 1-2).

(G) As per currently amended claim 24, Martinez discloses the system for providing improved performances for a target entity, the system comprising the components of:

(1) an independent program catalyst that is operative to:

(a) identify program requirements designed to reduce risks of accidents associated with the healthcare industry (Martinez: pp. 1-2); and

- (b) reduce risks of accidents associated with the healthcare industry by implementing procedures directed towards assisting the target entity in meeting the program requirements (Martinez: pp. 1-2);

Martinez, however, fails to *expressly* disclose the system for providing improved performances for a target entity, the system comprising the components of:

- (1) an independent program catalyst that is operative to:
 - (c) monitoring the results of the target entity to identify the conformance to the program requirements (Minturn: col. 9, lines 45-54);
 - (d) attributing a score to the monitored results (Minturn: abstract)
- (2) a web-enabled software solution for providing the monitoring results and the scores to the target entity, the independent program catalyst and an interested third party (Minturn: Fig. 1).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an

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insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

(H) As per currently amended claim 25, Martinez fails to *expressly* disclose the system of claim 24, wherein said score comprises an indication of the target entity's conformance with said program requirements.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn. In particular, Minturn discloses the system of claim 24, wherein said score comprises an indication of the target entity's conformance with said program requirements (Minturn: abstract).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

(I) As per original claim 26, Martinez fails to *expressly* disclose the system of claim 24, wherein the program catalyst is further operative to provide feedback to the insuring entity regarding said monitored results and said score.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn. In particular, Minturn discloses the system of claim 24, wherein the program

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catalyst is further operative to provide feedback to the insuring entity regarding said monitored results and said score (Minturn: abstract; Fig. 1).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

(J) As per original claim 27, Martinez fails to *expressly* disclose the system of claim 24, wherein the program catalyst provides feedback to the insuring entity by utilizing the web-enabled software.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn. In particular, Minturn discloses the system of claim 24, wherein the program catalyst provides feedback to the insuring entity by utilizing the web-enabled software (Minturn: Fig. 1).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

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(K) As per currently amended claim 28, Martinez discloses the method of claim 1, wherein the step of monitoring the results of the procedures to identify the proximity of the insured healthcare facility meeting the insurance program requirements is performed after the insurance program is issued to the insured healthcare facility (Martinez: pp. 1-2).

(L) As per previously presented claim 33, Martinez discloses the system of claim 24, wherein the independent program catalyst monitors the results of the target entity to identify the proximity to meeting the program requirements after the program has been issued to the target entity (Martinez: pp. 1-2).

(M) As per new claim 34, Martinez discloses a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (1) determining insurance program requirements designed to reduce risks of accidents associated with the healthcare facility (Martinez: pp. 1-2);
- (2) implementing countermeasures to improve insurance program conformance (Martinez: pp. 1-2)

(Examiner notes Martinez teaches that the JCAHO, upon inspection of a healthcare facility (e.g., hospital), recommends improvements that a healthcare facility should undertake to receive accreditation and that the

healthcare facility, in turn, responds by outlining how the healthcare facility will make improvements (i.e., countermeasures);

- (3) formulating a program containing the insurance program requirements (Martinez: pp. 1-2);
- (4) reducing risks of accidents associated with the healthcare industry by implementing procedures designed for the insured healthcare facility to meet the insurance program requirements (Martinez: pp. 1-2);
- (5) identifying the conformance of the insured healthcare facility to the insurance program requirements (Martinez: pp. 1-2); and
- (6) communicating data indicative of the conformance of the insured healthcare facility to an interested third party (Martinez: pp. 1-2).

Martinez, however, fails to *expressly* disclose a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (7) monitoring the results of the procedures to identify the conformance of the insured healthcare facility to the insurance program requirements; and
- (8) calculating a performance score indicative of the conformance of the insured healthcare facility to the insurance program requirements.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn. In particular, Minturn discloses a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (7) monitoring the results of the procedures to identify the conformance of the insured healthcare facility to the insurance program requirements (Minturn: col. 9, lines 45-54); and
- (8) calculating a performance score indicative of the conformance of the insured healthcare facility to the insurance program requirements (Minturn: abstract).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

(N) As per new claim 35, Martinez discloses a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (1) determining insurance program requirements designed to reduce risks of accidents associated with the healthcare industry (Martinez: pp. 1-2);

- (2) providing risk reports from the program catalyst to the insurer describing the conformance to the insurance program requirements by the healthcare facility (Martinez pp. 1-2)

(Examiner notes that Martinez teaches that the JCAHO assesses a healthcare facility's conformance to requirements by, *inter alia*, interviewing staff and patients, reviewing documents and examining facilities that culminates in a risk report.);

- (3) formulating an insurance program for insuring a healthcare facility containing the insurance program requirements (Martinez: pp. 1-2);
- (4) executing an insurance relationship program for insuring a healthcare facility containing the insurance program requirements (Martinez: pp. 1-2); and
- (5) monitoring the healthcare facility to identify conformance to the insurance program requirements by the healthcare facility, wherein the monitoring is performed by a program catalyst (Martinez: pp. 1-2).

Martinez, however, fails to *expressly* disclose a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

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- (6) modifying the insurance program based on the conformance to the insurance program requirements by the healthcare facility.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn. In particular, Minturn discloses a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (6) modifying the insurance program based on the conformance to the insurance program requirements by the healthcare facility (Minturn: col. 9, lines 45-54).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

4. Claims 3-4, 17-19, 29-30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez and Minturn, as applied to claim 1 above, and further in view of Official Notice.

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(A) As per currently amended claim 3, Martinez fails to *expressly* disclose the method of claim 1, wherein the step of formulating an insurance program containing one or more insurance program requirements comprises a single insurer offering the insurance program.

Nevertheless, Official Notice is taken of the technique of having a single insurer offering an insurance program. For example, this technique has often been employed by insurers, which offer home insurance. As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Martinez and Minturn with the motivation of simplifying insurance program management.

(B) As per currently amended claim 4, Martinez fails to *expressly* disclose the method of claim 1, wherein the step of formulating an insurance program containing the insurance program requirements comprises several insurance providers underwriting the insurance program.

Nevertheless, Official Notice is taken of the technique of having a plurality of insurance providers underwrite and insurance program. For example, this technique has often been employed in the syndication of insurance whereby a group of insurers or reinsurers take predetermined shares of premiums, losses, expenses, and profits to

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cover major risks that are beyond the capacity of a single underwriter. As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Martinez and Minturn with the motivation of reducing/spreading risk among several insurers.

(C) As per currently amended claim 17, Martinez discloses a method for creating an insurance product for an insured healthcare facility while minimizing insurance risks and reducing premium costs, said method comprising the steps of:

- (1) determining insurance program requirements designed to reduce risks of accidents associated with the healthcare industry (Martinez: pp. 1-2);
- (2) reducing risks of accidents associated with the healthcare industry by providing an insurance program designed for the insured healthcare facility to meet the insurance program requirements (Martinez: pp. 1-2);
- (3) determining the conformance of the insured to the insurance program requirements (Martinez: pp. 1-2);
- (4) communicating data indicative of the conformance of the insured to a third party (Martinez: pp. 1-2); and

- (5) monitoring the insured entity to determine whether the insured is meeting the program requirements (Martinez: pp. 1-2).

Martinez, however, fails to *expressly* disclose a method for creating an insurance product for an insured healthcare facility while minimizing insurance risks and reducing premium costs, said method comprising the steps of:

- (6) creating a new insurance product containing one or more insurance program requirements; and
- (7) distributing the new insurance product to the insured healthcare facility though a distribution channel.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn and Official Notice. In particular, Minturn and Official Notice disclose a method for creating an insurance product for an insured healthcare facility while minimizing insurance risks and reducing premium costs, said method comprising the steps of:

- (6) creating a new insurance product containing one or more insurance program requirements (Minturn: abstract);
- (7) distributing the new insurance product to the insured healthcare facility though a distribution channel (Nevertheless, Official Notice is taken of the technique of distributing a product and/or service via a distribution

channel. For example, insurance providers often distribute their insurance programs through agents/brokers (i.e., distribution channels). As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Martinez and Minturn with the motivation of providing a means of distributing an insurance provider's products and services.

(D) As per original claim 18, Martinez fails to *expressly* disclose the method of claim 17, wherein creating a new insurance product comprises creating an insurance product comprising reduced premiums, reduced risk of claims by adherence assurances, and an increased standard in provided services.

Nevertheless, these features are old and well known in the art, as evidenced by Minturn. In particular, Minturn discloses the method of claim 17, wherein creating a new

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insurance product comprises creating an insurance product comprising reduced premiums, reduced risk of claims by adherence assurances, and an increased standard in provided services (Minturn: col. 9, lines 45-54)

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Minturn with the teachings of Martinez with the motivation of enhancing performance of the insured by providing an incentive for an insured to abide by and conform to insurance program requirements (Minturn: col. 9, lines 45-54).

(E) As per currently amended claim 19, Martinez fails to *expressly* disclose the method of claim 17, wherein distributing the new insurance product to the insured healthcare facility though a distribution channel comprises distributing the new insurance product through authorized brokers.

Nevertheless, Official Notice is taken of the technique of distributing a product and/or service via authorized brokers. For example, insurance providers often distribute their insurance programs through entities, such as agents/brokers, who sell and service insurance programs/policies. As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of

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Martinez and Minturn with the motivation of providing a means of distributing an insurance provider's products and services.

(F) As per previously presented claim 29, Martienz fails to *expressly* disclose the method of claim 1, wherein the interested third party is an insurance underwriter.

Nevertheless, Official Notice is taken of the technique of employing an insurance underwriter as a third party. For example, insurance underwriters are often employed to examine, accept, or reject insurance risks, and to classify those risks selected, in order to charge the proper premium for each and thus, spread the risk among a pool of insureds in a manner that is equitable for the insureds and profitable for the insurer. As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Martinez and Minturn with the motivation of reducing/spreading risk among several insurers.

(G) As per previously presented claim 30, Martinez fails to *expressly* disclose the method of claim 1, wherein the interested third party is a reinsurer.

Nevertheless, Official Notice is taken of the technique of employing reinsurer as third party. For example, reinsurers are often employed to assume all or part of an insurance program/policy written by a primary insurance company (i.e., ceding

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company) and thus, reducing the potential maximum loss (i.e, spreading the risk) of the primary insurance company. Like underwriters, reinsurers also analyze risks to determine whether an insurance risk should be accepted or rejected and classify those risks selected to charge the appropriate premiums. As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Martinez and Minturn with the motivation of reducing/spreading risk among several insurers.

(H) As per currently amended claim 32, Martinez discloses the method of claim 17, wherein the step of monitoring the insured healthcare facility to determine whether the insured healthcare facility is meeting the insurance program requirements is performed after the insurance program is issued to the insured healthcare facility (Martinez: pp. 1-2).

Response to Arguments

5. Applicant's arguments with respect to claims 1-8, 17-19, 24-30, and 32-35 have been considered but they are moot in view of new ground(s) of rejection.

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(A) In response to Applicant's argument that Simpson and Ando are not considered prior art under 35 U.S.C. § 102, Examiner acknowledges Applicant's priority date of 10/30/00. As such, the Simpson and Ando references applied in the previous Office Action filed 11/13/06 are withdrawn as prior art.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied art teaches hospitals receiving JCAHO accreditation and, in turn, receive breaks or discounts from their insurance provider (5,669,877).

The cited but not applied prior art also includes non-patent literature articles by Burda, David ("Financial Reasons Lead Quest For JCAHO Approval" Sep 25, 1995. Modern Healthcare. Vol. 25, Iss. 39. pg. 28.); Bogardus, Sibyl ("Wellness Programs: Complying With The Americans With Disability Act (ADA)" First Quarter 1993. Benefits Quarterly. Vol. 9, Iss. 1. pg. 53.); and Lilly, Frances S ("Controlling Characteristics Of Group Insureds: Risk Rating" Second Quarter 1993. Benefits Quarterly. Vol. 9, Iss. 2. pg. 65.).

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MT

~~MA~~

Carolyn Bleck
Carolyn Bleck
Patent Examiner-AU 3626